



Reprinted
April 8, 2003

ENGROSSED HOUSE BILL No. 1034

DIGEST OF HB 1034 (Updated April 7, 2003 3:09 PM - DI 105)

Citations Affected: IC 33-4.

Synopsis: ADR pilot project. Permits a county to operate an alternative dispute resolution program for domestic relations cases if the county: (1) uses a plan submitted to the judicial conference; and (2) obtains approval by a majority of the judges in the county exercising jurisdiction over domestic relations and paternity cases. Permits a senior judge to serve as a domestic relations mediator. Prohibits a court from ordering or referring parties into mediation if a party is currently charged with or convicted of certain crimes. (The introduced version of this bill was approved by the commission on courts.)

Effective: July 1, 2003.

Pond, Kuzman, Welch, Ayres, Lawson L

(SENATE SPONSORS — LONG, LANANE, BRODEN, WYSS, MEEKS C,
ZAKAS)

January 7, 2003, read first time and referred to Committee on Judiciary.
January 23, 2003, amended, reported — Do Pass.
January 27, 2003, read second time, ordered engrossed. Engrossed.
January 28, 2003, read third time, passed. Yeas 87, nays 0.

SENATE ACTION

February 11, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.
March 27, 2003, amended, reported favorably — Do Pass.
March 31, 2003, read second time, ordered engrossed. Engrossed.
April 1, 2003, returned to second reading.
April 7, 2003, reread second time, amended, ordered engrossed.

EH 1034—LS 6239/DI 105+



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April 8, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1034

A BILL FOR AN ACT to amend the Indiana Code concerning
courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-4-8-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 3. A senior judge:

3 (1) exercises the jurisdiction granted to the court served by the
4 senior judge;

5 (2) **may serve as a domestic relations mediator, subject to the**
6 **code of judicial conduct;**

7 (3) serves at the pleasure of the supreme court; and

8 ~~(4)~~ (4) serves in accordance with rules adopted by the supreme
9 court under IC 33-2-1-8. **A senior judge serving as a domestic**
10 **relations mediator is not entitled to reimbursement or a per**
11 **diem under IC 33-4-8-5. A senior judge serving as a domestic**
12 **relations mediator may receive compensation from the**
13 **alternative dispute resolution fund under IC 33-4-13, in**
14 **accordance with the county domestic relations alternative**
15 **dispute resolution plan.**

16 SECTION 2. IC 33-4-13 IS ADDED TO THE INDIANA CODE AS
17 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2003]:

Chapter 13. Alternative Dispute Resolution in Domestic Relations Cases

Sec. 1. (a) In addition to the fees required under IC 33-19-5-4, if a county meets the requirements of this chapter, the clerk of the court shall collect from the party filing a petition for legal separation, paternity, or dissolution of marriage under IC 31 an alternative dispute resolution fee of twenty dollars (\$20).

(b) Not later than thirty (30) days after the clerk collects a fee under subsection (a), the clerk shall forward to the county auditor the alternative dispute resolution fee. The county auditor shall deposit the fee forwarded by the clerk under this section into the alternative dispute resolution fund.

Sec. 2. (a) There is established an alternative dispute resolution fund for the circuit court and an alternative dispute resolution fund for the superior court. The exclusive source of money for each fund is the alternative dispute resolution fee collected under section 1 of this chapter for the circuit or superior court, respectively.

(b) The funds shall be used to foster domestic relations alternative dispute resolution, including mediation, reconciliation, nonbinding arbitration, and parental counseling. Litigants referred by the court to services covered by the fund shall make a copayment for the services in an amount determined by the court based on the litigants' ability to pay. The fund shall be administered by the circuit or superior court that exercises jurisdiction over domestic relations and paternity cases in the county. Money in each fund at the end of a fiscal year does not revert to the county general fund but remains in the fund for the uses specified in this section.

(c) The circuit or superior court that administers the alternative dispute resolution fund shall ensure that money in the fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay, in accordance with the plan adopted by the county under section 3 of this chapter.

(d) A court may not order parties into mediation or refer parties to mediation if a party is currently charged with or has been convicted of a crime:

(1) under IC 35-42; or

(2) in another jurisdiction that is substantially similar to the elements of a crime described in IC 35-42.

Sec. 3. A county desiring to participate in the program under this chapter must:



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1 (1) develop a plan to carry out the purposes of section 2 of this
2 chapter that have been approved by a majority of the judges
3 in the county exercising jurisdiction over domestic relations
4 and paternity cases; and

5 (2) submit the plan to the judicial conference of Indiana.

6 The plan must include information concerning how the county
7 proposes to carry out the purposes of the domestic relations
8 alternative dispute resolution fund as set out in section 2 of this
9 chapter. The plan must include a method of ensuring that the
10 money in the alternative dispute resolution fund is disbursed in a
11 manner that primarily benefits those litigants who have the least
12 ability to pay. The plan may include the use of senior judges as
13 mediators in domestic relations cases as assigned by the supreme
14 court. The judicial conference of Indiana may request additional
15 information from the county as necessary.

16 Sec. 4. A county that participates in the program under this
17 chapter shall submit a report to the judicial conference of Indiana
18 not later than December 31 of each year, summarizing the results
19 of the program.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1034, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 2, delete "twenty-four dollars (\$124)." and insert **"twenty-seven dollars (\$127)."**

Page 2, between lines 23 and 24, begin a new paragraph and insert:

"(c) A court may not order parties into mediation or refer parties to mediation if a party is currently charged with or has been convicted of a crime:

(1) under IC 35-42; or

(2) in another jurisdiction that is substantially similar to the elements of a crime described in IC 35-42."

and when so amended that said bill do pass.

(Reference is to HB 1034 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 12, nays 0.

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SENATE MOTION

Mr. President: I move that Senators Broden, Wyss and Meeks C be added as cosponsors of Engrossed House Bill 1034.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred House Bill No. 1034, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 15, delete "Notwithstanding" and insert **"In addition to the fees required under"**.

Page 2, line 1, delete "action".

Page 2, line 1, delete "a civil costs fee of one" and insert **"an alternative dispute resolution fee of twenty dollars (\$20)."**

Page 2, delete line 2.

Page 2, line 5, delete "difference between the fees collected under subsection (a) and" and insert **"alternative dispute resolution fee."**

Page 2, line 6, delete "the fees that would have been collected under IC 33-19-5-4."

Page 2, line 7, delete "fees" and insert **"fee"**.

Page 2, line 12, delete "fees" and insert **"alternative dispute resolution fee"**.

Page 2, line 18, after "court" insert **"based on the litigants' ability to pay"**.

Page 2, line 24, after "(c)" insert **"The circuit or superior court that administers the alternative dispute resolution fund shall ensure that money in the fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay, in accordance with the plan adopted by the county under section 3 of this chapter."**

(d)".

Page 2, line 40, after "chapter." insert **"The plan must include a method of ensuring that the money in the alternative dispute resolution fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay."**

and when so amended that said bill do pass.

(Reference is to HB 1034 as printed January 24, 2003.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1034, which is eligible for third reading, be returned to second reading for purposes of amendment.

LONG

SENATE MOTION

Mr. President: I move that Senator Zakas be added as cosponsor of Engrossed House Bill 1034.

LONG

SENATE MOTION

Mr. President: I move that Engrossed House Bill 1034 be amended to read as follows:

Page 1, line 9, after "IC 33-2-1-8." insert "**A senior judge serving as a domestic relations mediator is not entitled to reimbursement or a per diem under IC 33-4-8-5. A senior judge serving as a domestic relations mediator may receive compensation from the alternative dispute resolution fund under IC 33-4-13, in accordance with the county domestic relations alternative dispute resolution plan.**".

(Reference is to EHB 1034 as printed March 28, 2003.)

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